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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,846	03/29/2004	Tsutomu Anezaki	325772035000	9116

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EXAMINER

KOHNER, MATTHEW J

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 08/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/810,846	Applicant(s) ANEZAKI ET AL.	
	Examiner Matthew J. Kohner	Art Unit 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 5, 12 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/29/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5, 12 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "larger" in claim 5 is a relative phrase which renders the claim indefinite. The term "term" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For example, does the term "larger" relate to a predetermined number of sheets or does it relate the number of sheets in the previous stack or does it relate to some other number of sheets? Similar rejections apply to claims 12 and 18.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6-11, 13-17 and 19-20 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,889,971 to Tamura et al. (*hereinafter* "Tamura").

Tamura discloses a sheet stack ejecting apparatus comprising:

an ejecting device (90) for carrying and ejecting a sheet stack, the ejecting device holding a sheet stack with two rotating members (911, 912) to carry the sheet stack;

an open-close mechanism (901) for switching states of the two rotating members by shifting at least one of the two rotating members to adjust pressing force, the open-close mechanism switching between a contact and pressing state (Fig. 14B) and a pressing-force weakened state (Fig. 15A); and

a controller for controlling the open-close mechanism that makes the two rotating members a contact and pressing state by the open-close mechanism when a sheet stack ejected, and makes the two rotating members a pressing-force weakened state before a back end of the sheet stack escapes from nips of the two rotating members (col. 18, line 10 – col. 13, line 13).

In regard to claim 2, see Fig. 14B.

In regard to claims 3, 4 and 6, see col. 18, lines 44 *et seq.*

In regard to claim 7, see Fig. 12 which shows elastic member (954) and moving member (SD3).

In regard to claim 8, Tamura discloses an image forming apparatus (see Fig. 1) and a processing tray (74).

In regard to claim 9, see Fig. 14B.

In regard to claims 10, 11 and 13, see col. 18, lines 44 *et seq.*

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In regard to claim 14, Tamura discloses a processing tray (74) and stack processing device (700).

In regard to claim 15, see Fig. 14B.

In regard to claims 16, 17 and 19, see col. 18, lines 44 *et seq.*

In regard to claim 20, Tamura discloses a stapler (700).

Claims 1, 2, 8, 9, 14, 15 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,994,339 to Kato et al. (*hereinafter* "Kato").

Kato discloses a sheet stack ejecting apparatus comprising:

an ejecting device (see Fig. 6) for carrying and ejecting a sheet stack, the ejecting device holding a sheet stack with two rotating members (50, 71) to carry the sheet stack;

an open-close mechanism (see Fig. 6) for switching states of the two rotating members by shifting at least one of the two rotating members to adjust pressing force, the open-close mechanism switching between a contact and pressing state (Fig. 6B) and a pressing-force weakened state (Fig. 6C); and

a controller for controlling the open-close mechanism that makes the two rotating members a contact and pressing state by the open-close mechanism when a sheet stack ejected, and makes the two rotating members a pressing-force weakened state before a back end of the sheet stack escapes from nips of the two rotating members (col. 6, lines 7-25).

In regard to claim 2, see Fig. 6C.

In regard to claim 8, Kato discloses an image forming apparatus (see Fig. 1) and a processing tray (40).

In regard to claim 9, see Fig. 6C.

In regard to claim 14, Tamura discloses a processing tray (40) and stack processing device (col. 6, line 16).

In regard to claim 15, see Fig. 6C.

In regard to claim 20, Kato discloses a stapler (col. 6, line 16).

Allowable Subject Matter

Claims 5, 12 and 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kohner whose telephone number is 571-272-6939. The examiner can normally be reached on Mon-Fri 9-5:30.

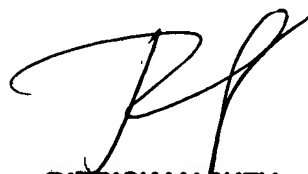
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on 571-272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Matthew J. Kohner
Examiner
Art Unit 3653

mjk



PATRICK MACKEY
PRIMARY EXAMINER